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9 Attorneys for Plaintiffs,
10 WARNER BROS. RECORDS INC.;
11 INTERSCOPE RECORDS; MAVERICK
12 RECORDING COMPANY; UMG RECORDINGS,
13 INC.; BMG MUSIC; and VIRGIN RECORDS
14 AMERICA, INC.

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

WARNER BROS. RECORDS INC., a Delaware corporation; INTERSCOPE RECORDS, a California general partnership; MAVERICK RECORDING COMPANY, a California joint venture; UMG RECORDINGS, INC., a Delaware corporation; BMG MUSIC, a New York general partnership; and VIRGIN RECORDS AMERICA, INC., a California corporation,

Plaintiffs,

v.

JOHN DOE #2,

Defendant.

CASE NO. 3:07-CV-04842-MJJ

The Honorable Martin J. Jenkins

***EX PARTE APPLICATION TO CONTINUE
CASE MANAGEMENT CONFERENCE
AND EXTEND TIME TO SERVE
DEFENDANT AND [PROPOSED] ORDER***

1 Plaintiffs respectfully request that the Court continue the case management conference
 2 currently set for January 8, 2008 at 2:00 p.m. to May 6, 2008. Plaintiffs further request, pursuant to
 3 the Federal Rules of Civil Procedure, Rules 4(m) and 6(b)(1), that Plaintiffs' time to serve the
 4 Summons and Complaint on Defendant be extended from January 18, 2008 to May 16, 2008. As set
 5 forth in more detail below and in the accompanying declaration, this application is made *ex parte*
 6 because Defendant's identity is not yet known to Plaintiffs. Declaration of Matthew Franklin Jaksa
 7 ("Jaksa Decl."), ¶ 5.

8 Plaintiffs filed the Complaint against Defendant John Doe #2 ("Defendant") on September
 9 20, 2007. Jaksa Decl., ¶ 2. Also on September 20, 2007, Plaintiffs filed their *Ex Parte* Application
 10 for Leave to Take Immediate Discovery, seeking the Court's permission to serve a Rule 45 subpoena
 11 on San Francisco State University ("SFSU") so that Plaintiffs could obtain information sufficient to
 12 identify Defendant. Jaksa Decl., ¶ 4. The Court has not yet ruled on Plaintiffs' *Ex Parte* Application
 13 for Leave to Take Immediate Discovery. Jaksa Decl., ¶ 5.

14 If the Court grants Plaintiffs' *Ex Parte* Application for Leave to Take Immediate Discovery,
 15 Plaintiffs will attempt to determine Defendant's identity by serving a Rule 45 subpoena on SFSU.
 16 Jaksa Decl., ¶ 6. However, until that time, Plaintiffs cannot seek discovery from SFSU, and
 17 therefore cannot identify and serve Defendant or otherwise advance the present litigation. Jaksa
 18 Decl., ¶¶ 5, 7, 9.

19 Given the foregoing circumstances, a case management conference is unnecessary at this
 20 time. Plaintiffs therefore respectfully request that the Court continue the case management
 21 conference currently set for January 8, 2008, at 2:00 p.m. to May 6, 2008.

22 Furthermore, the original time period for Plaintiffs to serve the Summons and Complaint on
 23 Defendant will expire on January 18, 2008. Jaksa Decl., ¶ 8. Unless and until Plaintiffs learn
 24 Defendant's identity, Plaintiffs will be unable to amend the complaint to name Defendant, or serve
 25 the amended complaint on Defendant. Jaksa Decl., ¶ 9. Even if the Court were to grant Plaintiffs'
 26 *Ex Parte* Application for Leave to Take Immediate Discovery in the near future and Plaintiffs were
 27 then to immediately serve a subpoena on SFSU, it is unlikely that Plaintiffs would learn Defendant's
 28 identity before the original service deadline passes. Moreover, Plaintiffs would be left with little or

1 no time to contact Defendant and attempt to resolve this matter or to amend the complaint to name
2 Defendant and attempt to serve the amended complaint.

3 Therefore, Plaintiffs respectfully request that the time to serve the Summons and Complaint
4 on Defendant be extended to May 16, 2008.

5 Dated: December 20, 2007

HOLME ROBERTS & OWEN LLP

6 By: /s/ Matthew Franklin Jaks
7 MATTHEW FRANKLIN JAKSA
8 Attorney for Plaintiffs

13 **ORDER**

14 Good cause having been shown:

15 **IT IS ORDERED** that the case management conference currently set for January 8, 2008, at
16 2:00 p.m. be continued to May 6, 2008.

17 **IT IS FURTHER ORDERED** that, pursuant to the Federal Rules of Civil Procedure, Rules
18 4(m) and 6(b)(1), Plaintiffs' time to serve the Summons and Complaint on Defendant be extended to
19 May 16, 2008.

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21 Dated: _____

22 By: _____
23 Honorable Martin J. Jenkins
24 United States District Judge
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